IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5600 OF 2006.

The Sai Shraddha Co-op. Hsg. Soc. Ltd., Mumbai & another. ... Petitioners.

V/s.

Jamal Sabir Shaikh & others. ... Respondents.

D.S.Sakharkar i/b. R.M.Yadav for the petitioners.

G.K.Karkera for respondent No.1.

CORAM: V.C.DAGA, J.

DATED: 14th September 2006.

P.C.:

. Heard learned counsel for the rival parties.

. Perused petition.

2. In the impugned order, the Divisional Joint Registrar, Co-operative Societies recorded finding that the respondent against whom notice of no-confidence motion was proposed to be taken out was not served with notice as required under rule 57-A(2)(e) of the Maharashtra Co-operative Societies Rules, 1961.

3. No material is produced in this petition to show that at any time any such notice was

despatched to the respondent in question by R.P.A.D.. Had it been sent by the petitioners, the petitioners would have got postal receipt evidencing despatch or acknowledgement evidencing receipt of notice; and had the same been with them, they would have produced the same along with petition. The very fact that no such acknowledgment is filed by the petitioner is sufficient to draw inference that no such notice was sent to the respondent in question as recorded by the Divisional Joint Registrar. Therefore, adverse finding recorded cannot be faulted. The impugned order cannot be said to be perverse or unsustainable order. The view taken by the Divisional Joint Registrar is a reasonable and possible view.

4. In the result, petition is dismissed in limine with no order as to costs.

(V.C.DAGA, J.)